

# PATENT COOPERATION TREATY

## PCT

### INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter I of the Patent Cooperation Treaty)

(PCT Rule 44bis)

Applicant's or agent's file reference PTD/JPS/2738PC	<b>FOR FURTHER ACTION</b>		See item 4 below
International application No. PCT/GB2005/001612	International filing date ( <i>day/month/year</i> ) 27 April 2005 (27.04.2005)	Priority date ( <i>day/month/year</i> ) 28 April 2004 (28.04.2004)	
International Patent Classification (8th edition unless older edition indicated) See relevant information in Form PCT/ISA/237			
Applicant SMITH & NEPHEW, PLC			

1. This international preliminary report on patentability (Chapter I) is issued by the International Bureau on behalf of the International Searching Authority under Rule 44 bis.1(a).
2. This REPORT consists of a total of 7 sheets, including this cover sheet.

In the attached sheets, any reference to the written opinion of the International Searching Authority should be read as a reference to the international preliminary report on patentability (Chapter I) instead.

3. This report contains indications relating to the following items:

<input checked="" type="checkbox"/>	Box No. I	Basis of the report
<input checked="" type="checkbox"/>	Box No. II	Priority
<input checked="" type="checkbox"/>	Box No. III	Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
<input type="checkbox"/>	Box No. IV	Lack of unity of invention
<input checked="" type="checkbox"/>	Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
<input type="checkbox"/>	Box No. VI	Certain documents cited
<input checked="" type="checkbox"/>	Box No. VII	Certain defects in the international application
<input checked="" type="checkbox"/>	Box No. VIII	Certain observations on the international application

4. The International Bureau will communicate this report to designated Offices in accordance with Rules 44bis.3(c) and 93bis.1 but not, except where the applicant makes an express request under Article 23(2), before the expiration of 30 months from the priority date (Rule 44bis .2).

		Date of issuance of this report 01 November 2006 (01.11.2006)
The International Bureau of WIPO 34, chemin des Colombettes 1211 Geneva 20, Switzerland  Facsimile No. +41 22 338 82 70		Authorized officer  Dorothée Mülhausen  e-mail: pt01@wipo.int

# PATENT COOPERATION TREATY

REC'D 25 JUL 2005

WIPO

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From the  
INTERNATIONAL SEARCHING AUTHORITY

To:

see form PCT/ISA/220

PCT

## WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY (PCT Rule 43bis.1)

Date of mailing  
(day/month/year) see form PCT/ISA/210 (second sheet)

### FOR FURTHER ACTION

See paragraph 2 below

Applicant's or agent's file reference  
see form PCT/ISA/220

International application No.  
PCT/GB2005/001612

International filing date (day/month/year)  
27.04.2005

Priority date (day/month/year)  
27.04.2004

International Patent Classification (IPC) or both national classification and IPC  
A61M3/02

Applicant  
SMITH & NEPHEW, PLC

#### 1. This opinion contains indications relating to the following items:

- Box No. I Basis of the opinion
- Box No. II Priority
- Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- Box No. IV Lack of unity of invention
- Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- Box No. VI Certain documents cited
- Box No. VII Certain defects in the international application
- Box No. VIII Certain observations on the international application

#### 2. FURTHER ACTION

If a demand for international preliminary examination is made, this opinion will usually be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA"). However, this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of three months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

#### 3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA:



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Authorized Officer

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**Box No. I Basis of the opinion**

1. With regard to the **language**, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.  
 This opinion has been established on the basis of a translation from the original language into the following language , which is the language of a translation furnished for the purposes of international search (under Rules 12.3 and 23.1(b)).
2. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:
  - a. type of material:  
 a sequence listing  
 table(s) related to the sequence listing
  - b. format of material:  
 in written format  
 in computer readable form
  - c. time of filing/furnishing:  
 contained in the international application as filed.  
 filed together with the international application in computer readable form.  
 furnished subsequently to this Authority for the purposes of search.
3.  In addition, in the case that more than one version or copy of a sequence listing and/or table relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
4. Additional comments:

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**Box No. II Priority**

1.  The validity of the priority claim has not been considered because the International Searching Authority does not have in its possession a copy of the earlier application whose priority has been claimed or, where required, a translation of that earlier application. This opinion has nevertheless been established on the assumption that the relevant date (Rules 43bis.1 and 64.1) is the claimed priority date.
2.  This opinion has been established as if no priority had been claimed due to the fact that the priority claim has been found invalid (Rules 43bis.1 and 64.1). Thus for the purposes of this opinion, the international filing date indicated above is considered to be the relevant date.
3. Additional observations, if necessary:

**Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability**

The questions whether the claimed invention appears to be novel, to involve an inventive step (to be non-obvious), or to be industrially applicable have not been examined in respect of:

- the entire international application,
- claims Nos. 14

because:

- the said international application, or the said claims Nos. relate to the following subject matter which does not require an international preliminary examination (specify):
- the description, claims or drawings (*indicate particular elements below*) or said claims Nos. are so unclear that no meaningful opinion could be formed (specify):
- the claims, or said claims Nos. are so inadequately supported by the description that no meaningful opinion could be formed.
- no international search report has been established for the whole application or for said claims Nos. 14
- the nucleotide and/or amino acid sequence listing does not comply with the standard provided for in Annex C of the Administrative Instructions in that:
  - the written form  has not been furnished  does not comply with the standard
  - the computer readable form  has not been furnished  does not comply with the standard
- the tables related to the nucleotide and/or amino acid sequence listing, if in computer readable form only, do not comply with the technical requirements provided for in Annex C-bis of the Administrative Instructions.
- See separate sheet for further details

**WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY**

International application No.  
PCT/GB2005/001612

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**Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or  
industrial applicability; citations and explanations supporting such statement**

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1. Statement

Novelty (N)	Yes: Claims	
	No: Claims	1-13
Inventive step (IS)	Yes: Claims	
	No: Claims	1-13
Industrial applicability (IA)	Yes: Claims	1-13
	No: Claims	

2. Citations and explanations

**see separate sheet**

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**Box No. VII Certain defects in the international application**

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The following defects in the form or contents of the international application have been noted:

**see separate sheet**

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**Box No. VIII Certain observations on the international application**

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The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made:

**see separate sheet**

**Re Item III**

**Non-establishment of opinion with regard to novelty, inventive step and industrial applicability**

Claim 14 relates to subject-matter considered by this Authority to be covered by the provisions of Rule 67.1(iv) PCT: *a method of treating wounds to promote wound healing*. For said claim no international search report has been established and, consequently, no examination will be carried out with respect to the novelty, inventive step and industrial applicability of the subject-matter of these claims (Article 34(4)(a)(I) PCT).

**Re Item V**

**Reasoned statement with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**

Reference is made to the following documents:

D1: US 2002/161346 A1 (LOCKWOOD JEFFREY S ET AL) 31 October 2002 (2002-10-31)  
D2: US 2003/021775 A1 (FREEMAN AMIHAY) 30 January 2003 (2003-01-30)

1. The present application does not meet the criteria of Article 33(1) PCT, because **the subject-matter of claim 1 is not new** in the sense of Article 33(2) PCT.

Document D1 discloses an apparatus for cleansing wounds, comprising:

- I) a fluid flow path, comprising a conformable wound dressing, having a backing layer which is capable of forming a relatively fluid-tight seal over a wound, and
  - an inlet pipe (652) for connection to a fluid supply (14), which passes under the wound-facing face (656), and
  - an outlet pipe (23) for connection to a fluid offtake tube (13), which passes through the wound-facing (652) face forming a relatively fluid-tight seal over the wound (paragraph [0018]);
- ii) a fluid reservoir (14) connected by a fluid supply tube (see fig. 36) to the inlet pipe (652);
- iii) a device for moving fluid through the wound dressing (paragraph [0086]);
- iv) means for supplying physiologically active agents to the wound (paragraph

[0071]); and

v) means for providing simultaneous aspiration and irrigation of the wound (paragraph [0116]), such that fluid may be supplied to fill the flowpath from the fluid reservoir via the fluid supply tube while fluid is aspirated by a device through the fluid offtake tube (see fig. 36).

All features of claim 1 are also known from document D2.

2. Dependent claims 2-13 do not contain any features which, in combination with the features of any claim to which they refer, meet the requirements of the PCT in respect of novelty, as all said features are either already known from documents D1 or D2, or obvious to those skilled in the art.

**Re Item VII**

**Certain defects in the international application**

The features of the claims are not provided with reference signs placed in parentheses (Rule 6.2(b) PCT).

**Re Item VIII**

**Certain observations on the international application**

Claims 1 and 7 are not clear (Article 6 PCT) for the following reasons:

- I) claim 1 defines "*a device for moving fluid through the wound dressing*", what leaves the reader in doubt if the fluid is moved through a tubing which passes through the dressing or through the dressing itself (which could be e.g. fluid permeable);
- ii) claim 7 defines that the means for providing aspiration and irrigation **often** comprises a first device, a second device, etc., therefore leaving the reader in doubt as to the scope of the claimed subject matter.